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10/588,759	08/08/2006	Marco Ortalda	294467US0PCT	2938
22850	7590	05/13/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
NEGRELLI, KARA B				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
05/13/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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TIN AND TRANSITION METAL FREE POLYURETHANE FOAMS

ADVISORY ACTION

1. Applicant's arguments filed 05/02/2009 have been fully considered but they are not persuasive.
2. Applicant traverses the rejections made over Clatty 2003/0166735, due to the fact that Clatty could not have predicted the results as shown in Example 4 and Comparative Example 4 of the instant application.
3. Applicant's argument is not persuasive. Comparative Example 4 of the instant application is not representative of the closet prior art. The examples of the foams in Table 1 in Clatty 2003/0166735 use a tertiary amine catalyst A (polycat 8) in combination with tetraethylenediamine and dibutyl tin diacetate (a tin salt). Comparative example 4 of the instant application uses Niox D22 as a catalyst.
4. Applicant argues that because the Shore Hardness Values A and D "is like comparing apples to oranges," and that the composition terms "flexible" and "rigid" are not the same or similar end products.
5. Applicant's arguments are not persuasive. Neither Shore Hardness nor flexibility are claimed in the instant application. Furthermore, there is no evidence of record that the rigid foam of the prior art is less flexible than the foam of the instant application.
6. Applicant argues that Londrigan et al. does not teach a bismuth carboxylate catalyst and therefore cannot be used in combination with the reference taught by Clatty. However, note that while Londrigan does not disclose

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all the features of the present claimed invention, Londrigan is used as teaching reference, and therefore, it is not necessary for this secondary reference to contain all the features of the presently claimed invention, *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973), *In re Keller* 624 F.2d 413, 208 USPQ 871, 881 (CCPA 1981). Rather this reference teaches a certain concept, an organic acid metal salt and a tertiary amine is a ratio of less than 3:1 (column 5, lines 44-47), and in combination with the primary reference, discloses the presently claimed invention.

7. Applicant argues that neither Priest nor Burckhardt et al. remedy the "deficiencies" in Clatty. However, due to the reasons specified above, Clatty does obviate the instantly claimed invention.

8. Accordingly, the office action filed March 31, 2009 is **FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KARA NEGRELLI whose telephone number is (571)270-7338. The examiner can normally be reached on Monday through Friday 8:00 am EST to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571)272-1302.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Examiner, Art Unit 1796

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